

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/007,720	01/28/87	LAFON	FL-1006-US

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EXAMINER	
HIGEL, F	
ART UNIT	PAPER NUMBER
121	7

DATE MAILED:

09/13/88

09/13/88

**This is a communication from the examiner in charge of your application.**

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 07-07-88 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire THREE month(s) \_\_\_\_\_ days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. ☐ Notice of References Cited by Examiner, PTO-892. 2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449 4. ☐ Notice of informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474 6. ☐ \_\_\_\_\_

## Part II SUMMARY OF ACTION

1. ☒ Claims 1, 3, 4, AND 8 TO 10 are pending in the application.
- Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☒ Claims 2 AND 5 TO 7 have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1, 3, 4, AND 8 TO 10 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other \_\_\_\_\_

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Art Unit 121

Claims 1 and 8 to 10 are rejected under 35 U.S.C. 103 as being unpatentable over Lafon I or II, of record, for the reasons given in the last Office action.

While the levorotatory isomer may exhibit better bioavailability than the racemate or dextrorotatory isomer, it is not unexpectedly or surprisingly better. there is no showing especially with respect to the compositions claims directed to central nervous stimulants. Moreover, Lafon II would suggest the use of the compounds for treating Alzheimers disease since the reference disclose that the compounds thereof are useful in treating confusion especially in older people.

Claims 3 and 4 are rejected under 35 U.S.C. 103 as being unpatentable over Lafon I and II, of record, for the reasons given in rejecting claims 1 and 8 to 10 over these references, supra. Since the compounds of the references, i.e., the racemic mixture are useful in treating awakening disorders and confusion in the elderly, it would be obvious that the particular isomer which contributed most to these actions would be employed. It would be obvious to separate the racemate into isomers and determine which <sup>645</sup>~~777~~ the most active. No unobvious or unexpected properties have been shown.

No claim is allowed.

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Art Unit 121

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 121.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Floyd D. Higel whose telephone number is (703) 557-5075.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 557-3920.

HIGEL:wdh

9/9/88

*Floyd D. Higel*  
FLOYD D. HIGEL  
PRIMARY EXAMINER  
ART UNIT 121